

**BIRCH, STEWART, KOLASCH & BIRCH, LLP**

**INTELLECTUAL PROPERTY LAW**

**8110 GATEHOUSE ROAD**

**SUITE 500 EAST**

**FALLS CHURCH, VA 22042-1210**

**USA**

(703) 205-8000

FAX: (703) 205-8050

(703) 698-8590 (G IV)

e-mail: mailroom@bskb.com

web: http://www.bskb.com

**CALIFORNIA OFFICE  
COSTA MESA, CALIFORNIA**

JAMES T. ELLER, JR.  
SCOTT L. LOWE  
D. RICHARD ANDERSON  
PAUL C. LEWIS  
MARK W. MILSTEAD\*  
RICHARD J. GALLAGHER  
JAYNE M. SAYDAH\*  
MARYANNE ARMSTRONG, PH.D.  
KECIA J. REYNOLDS  
ROBERT L. SCOTT, II  
KALPANA REDDY  
LARRY J. HUME

REG. PATENT AGENTS:  
FREDERICK R. HANDREN  
MAKI HATSUMI  
CRAIG A. McROBBIE  
GARTH M. DAHLEN, PH.D.  
ROBERT E. GOOZNER, PH.D.  
MATTHEW J. LATTIG  
TIMOTHY R. WYCKOFF  
KRISTI L. RUPERT, PH.D.  
HAYR A. SAYADIAN, PH.D.  
MATTHEW T. SHANLEY  
JASON W. RHODES  
CHRISTINA F. ANNICK  
SUSAN W. GORMAN, PH.D.  
DAVID J. CHO

TERRELL C. BIRCH  
RAYMOND C. STEWART  
JOSEPH A. KOLASCH  
JAMES M. SLATTERY  
BERNARD L. SWEENEY\*  
MICHAEL K. MUTTER  
CHARLES GORENSTEIN  
GERALD M. MURPHY, JR.  
LEONARD R. SVENSSON  
TERRY L. CLARK  
ANDREW D. MEIKLE  
ARC S. WEINER  
JOE MCKINNEY MUNCY  
ROBERT J. KENNEY  
DONALD J. DALEY  
JOHN W. BAILEY  
JOHN A. CASTELLANO  
MARY D. YACURA  
THOMAS S. AUCHTERLONIE  
MARK J. NUEL, PH.D.

OF COUNSEL:  
HERBERT M. BIRCH (1905-1996)  
ELLIOT A. GOLDBERG\*  
WILLIAM L. GATES\*  
EDWARD H. VALANCE  
RUPERT J. BRADY (RET.)\*  
F. PRINCE BUTLER  
FRED S. WHISENHUNT  
JAMES W. HELLWEGE

\*ADMITTED TO A BAR OTHER THAN VA.

Date: August 21, 2001

Docket No.: 3531-0103P

Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

This is a Request for filing a ☐ continuation ☒ divisional  
☐ continuation-in-part application under 37 C.F.R. § 1.53(b) on  
provisional Application No. 09/565,455 filed on May 5, 2000, the  
entire contents of which are hereby incorporated by reference,  
by

Paul R. BERGER, Phillip E. THOMPSON, Roger LAKE, Karl HOBART,  
Sean L. ROMMEL

for

SI-BASED RESONANT INTERBAND TUNNELING DIODES AND METHOD OF MAKING  
INTERBAND TUNNELING DIODES

1. ☒ Enclosed is an application consisting of specification,  
claims, declaration and drawings/photographs (if  
applicable).
2. ☒ The filing fee has been calculated as follows:

			LARGE ENTITY	SMALL ENTITY
BASIC FEE			\$710.00	\$355.00
	NUMBER FILED	NUMBER EXTRA	RATE      FEE	RATE      FEE
TOTAL CLAIMS	80-20 =	60	x 18 = \$1080.00	x 9 = \$0.00
INDEPENDENT CLAIMS	6-3 =	3	x 80 = \$240.00	x 40 = \$0.00
<input checked="" type="checkbox"/> MULTIPLE DEPENDENT CLAIMS PRESENTED			+ \$270.00	+ \$135.00
TOTAL			\$2300.00	\$0.00

3. ☒ A check in the amount of \$2300.00 to cover the filing fee and recording fee (if applicable) is enclosed.
4. ☐ Please charge Deposit Account No. 02-2448 in the amount of \$0.00. A triplicate copy of this request is enclosed.
5. Amend the specification by inserting before the first line thereof the following:

a. ☒ --This application is a ☐ continuation ☒ divisional ☐ continuation-in-part of co-pending Application No. 09/565,455, filed on May 5, 2000, the entire contents of which are hereby incorporated by reference and for which priority is claimed under 35 U.S.C. § 120; and this application claims priority of Application No. 60/133,067 filed in the U.S. on May 5, 1999 under 35 U.S.C. § 119.--

b. ☐ --This application is a ☐ continuation ☐ divisional ☐ continuation-in-part of co-pending Application No. 09/565,455, filed on May 5, 2000 and for which priority is claimed under 35 U.S.C. § 120. Application No. 09/565,455 is the national phase of PCT International Application No. PCT/\_\_\_\_\_/ filed on \_\_\_\_\_ under 35 U.S.C. § 371. The entire contents of each of the above-identified applications are hereby incorporated by reference. This application also claims priority of Application No. \_\_\_\_\_ filed in \_\_\_\_\_ on \_\_\_\_\_ under 35 U.S.C. § 119.--

6. ☒ Enclosed is/are twenty-two (22) sheet(s) of formal drawings and/or photographs.
- 7a. ☐ A statement claiming small entity status was filed in prior Application No. 09/565,455 on \_\_\_\_\_. See the attached copy of the statement claiming small entity status.
- 7b. ☐ The current application qualifies for small entity status.
8. ☒ The prior application is assigned to University of Delaware.
9. ☒ A Preliminary Amendment is enclosed.
- 10a. ☐ Priority of Application No(s). \_\_\_\_\_ filed in \_\_\_\_\_ on \_\_\_\_\_ is/are claimed under 35 U.S.C. § 119. See attached copy of the Letter claiming priority filed in the prior application on \_\_\_\_\_.
- 10b. ☐ Priority of International Appln. \_\_\_\_\_ filed on \_\_\_\_\_ under the Patent Cooperation Treaty and Application No. \_\_\_\_\_ filed in \_\_\_\_\_ on \_\_\_\_\_ under 35 U.S.C. § 119 are hereby reclaimed.
11. ☒ An Information Disclosure Statement and PTO-1449 form(s) are attached hereto for the Examiner's consideration.
12. ☒ Address all future communications to:  
  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
P.O. Box 747  
Falls Church, VA 22040-0747  
Telephone: (703) 205-8000  
  
or  
Customer No. 2292
13. ☐ An extension of time for \_\_\_\_\_ ( ) month(s) until \_\_\_\_\_ has been submitted in parent Application No. 09/565,455 in order to establish co-pendency with the present application.
14. ☐ Also enclosed herewith is the following:  
  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_


Docket No. 3531-0103P

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By

  
John A. Castellano, #35,094

JAC/abs  
3531-0103P

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000

Attachments

(Rev. 01/23/01)

093434-082101  
TOTAL 4444660